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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,461	08/07/2000	Akinori Sudo	Q59895	2864

7590

09/11/2003

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EXAMINER

HENDRICKSON, STUART L

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

634461

Applicant(s)

Group Art Unit

1154

Examiner

Redickson

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Statu

- ☒ Responsive to communication(s) filed on 7/24/03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-8, 14, 15 is/are pending in the application.
- ☐ Of the above claim(s) 1-8, 15 is/are withdrawn from consideration.
- ☒ Claim(s) 9, 10, 14 is/are allowed.
- ☒ Claim(s) 9, 10, 14 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyauchi et al. taken with Ozaki et al.

Miyauchi teaches on pg. 36 graphite with the claimed Co and Fe of 3 ppm. A powder is not taught, however this is the preferred form to make X-ray structure studies. Moreover, Ozaki teaches using micron-sized, ie powdered, graphite in an electrode in column 6. Therefore, forming powder from the graphite of Miyauchi, either before or after treatment, and using it as an electrode is an obvious measure to exploit its properties, consistent with the requirements of Ozaki.

Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nakamizo et al.

Nakamizo teaches on pgs. 281-282 ground natural graphite having the claimed C value. Not taught is the Fe content, however as it is a natural product, it is deemed to contain Fe because Fe is a common impurity in the earth. Moreover, it is taught to purify the graphite, thus if the amount of Fe were more than 100 ppm, then purification would reduce it to the claimed value. Alternately, purifying to less than 100 ppm is an obvious expedient to be able to measure defects in the graphite and elucidate its structure, rather than having to account for stray interstitial atoms. It is noted that unless purification were absolutely complete, trace Fe would meet the claim.

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Applicant's arguments with respect to claims 9, 10, 14 have been considered but are moot in view of the new ground(s) of rejection.

The claim language is taken to require Fe to be present.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.



Stuart Hendrickson
examiner Art Unit 1754